

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LARRY LLOYD,

Plaintiff,

v.

WASHINGTON STATE,

Defendant.

Case No. C04-5859FDB

REPORT AND  
RECOMMENDATION

**NOTED FOR:  
APRIL 15<sup>th</sup>, 2005**

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. On January 6<sup>th</sup>, 2005 mail sent to plaintiff by the court was returned as undeliverable. (Dkt. # 5). It has been more than sixty days since mail was returned, the court does not have a current address for the plaintiff. The plaintiff appears to have abandoned this action.

**DISCUSSION**

Local Rule 41 (b) (2) states:

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1 A party proceeding pro se shall keep the court and opposing parties advised as to his  
2 current address. If mail directed to a pro-se plaintiff by the clerk is returned by the  
3 post office, and if such plaintiff fails to notify the court and opposing parties within  
sixty days thereafter of his current address, the court may dismiss the action without  
prejudice for failure to prosecute.

4 This action has existed more than sixty days without an address for the plaintiff. Dismissal  
5 without prejudice for failure to prosecute is appropriate. Accordingly, the undersigned recommends  
6 **DISMISSAL WITHOUT PREJUDICE** for failure to prosecute pursuant to Local Rule 41 (b)(2).

7  
8 **CONCLUSION**

9 The court should dismiss this action as plaintiff has left no forwarding address and appears to  
10 have abandoned the case. A proposed order accompanies this Report and Recommendation.

11 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the  
12 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.  
13 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of  
14 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule  
15 72(b), the clerk is directed to set the matter for consideration on **April 15<sup>th</sup>, 2005**, as noted in the  
16 caption.

17  
18 DATED this 18<sup>th</sup> day of March, 2005.

19  
20 /S/ J. Kelley Arnold  
21 J. Kelley Arnold  
22 United States Magistrate Judge  
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